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**PUC DOCKET NO. 48785
SOAH DOCKET NO. 473-19-1265**

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**JOINT APPLICATION OF ONCOR
ELECTRIC DELIVERY COMPANY,
LLC AND AEP TEXAS, INC. TO
AMEND CERTIFICATES OF
CONVENIENCE AND NECESSITY
FOR A DOUBLE CIRCUIT 345-KV
TRANSMISSION LINE IN PECOS,
REEVES, AND WARD COUNTIES,
TEXAS (SAND LAKE –
SOLSTICE CCN)**

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PUBLIC UTILITY COMMISSION

OF TEXAS

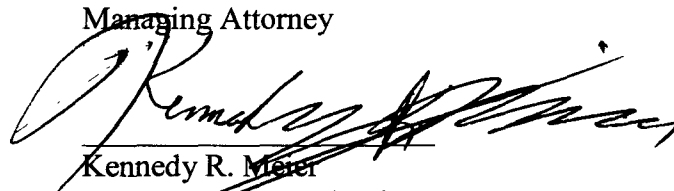
**COMMISSION STAFF'S REPLY TO EXCEPTIONS TO THE PROPOSAL FOR
DECISION**

Respectfully Submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
LEGAL DIVISION**

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MAY 6, 2019
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COMMISSION STAFF’S EXCEPTIONS TO THE PROPOSAL FOR DECISION

COMES NOW the Commission Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest, and files these Replies to Exceptions to the Proposal for Decision. In support thereof, Staff shows the following:

I. INTRODUCTION

Occidental Permian Ltd., Oxy Delaware Basin, LLC, Oxy USA Inc., Oxy USA WTP LP, Houndstooth Resources, LLC, and Occidental West Texas Overthrust, Inc. (collectively Oxy) and COG Operating LLC (Concho) filed exceptions to the Administrative Law Judges’ (ALJs) Proposal for Decision (PFD)¹ arguing that the Commission should select Route 325 over Route 320.² Staff maintains its recommendation for Route 41 or a route using the central corridor, and respectfully addresses Oxy and Concho’s exceptions below.

II. REPLIES TO EXCEPTIONS

A. Introduction and Summary

Not addressed.

¹ Proposal for Decision (Apr. 10, 2019) (PFD).

² See Oxy’s Exceptions to the Proposal for Decision at 6-9 (Apr. 23, 2019) (Oxy’s Exceptions); Concho’s Exceptions to the Proposal for Decision at 11-12 (Apr. 23, 2019) (Concho’s Exceptions).

B. Procedural History

Not addressed.

C. Jurisdiction and Notice

Not addressed.

D. Issues Relating to the Application

i. Application and Route Adequacy

Not addressed.

ii. Need and Project Alternatives

Not addressed.

E. Route Selection

i. Overview

Not addressed.

ii. Adequacy of Existing Service and Need for Additional Service

Not addressed.

iii. Community Values

Oxy and Concho argue that the ALJs' selection of Route 320 does not sufficiently reflect the community values of the study area, which they view as heavily focused on oil and gas development.³ However, the PFD acknowledges that "[t]he primary landowner concerns raised

³ See Oxy's Exceptions at 6-9; Concho's Exceptions at 13-14.

through testimony and examination at the hearing focused on the effects of the Project on oil and gas production.”⁴ Staff agrees that the effect on oil and gas interests may be a large part of “community values” for this particular study area, but contends that the impact on oil and gas development is only a part of the analysis of community values and is not the end of the inquiry. A weighing of community values among competing community interests, and as part of the considerations the Commission must consider under PURA⁵ § 37.056(c), is a highly fact-specific undertaking and can support selection of Route 41 or Route 320 as well.

As discussed in greater detail by Oxy,⁶ Staff does not oppose adoption of modified links if the landowner consents for those modifications have been obtained and entered into the record, regardless of whether modifications to other links on the route are adopted. However, Staff cannot support a link modification without 100% landowner consent to the modification in the record.

iv. Structures: Transmitters, Airports, Airstrips, and Irrigation Systems

Not addressed.

v. Park and Recreational Areas

Not addressed.

vi. Historical, Cultural, and Aesthetic Values

Not addressed.

vii. Environmental Integrity

Not addressed.

viii. Probable Improvement of Service or Lowering of Costs to Consumers

Not addressed.

⁴ PFD at 23.

⁵ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001–66.016 (PURA).

⁶ See Oxy’s Exceptions at 12-14.

ix. Engineering Constraints

Staff agrees with the PFD that, despite Oxy and Concho's assertions, there does not appear to be a need to deviate from Commission precedent regarding engineering constraints in this instance.⁷ The PFD also addresses the issue of unanticipated engineering constraints that may arise during construction.⁸ The PFD correctly concludes that concerns about such constraints are speculative, and that the record does not establish that mineral interests would have to be condemned in response to a route being built in the central corridor.⁹ Oxy and Concho reiterate their speculative arguments in their exceptions,¹⁰ and introduce further conjecture regarding uninvolved third parties who may or may not site facilities along proposed links.¹¹ Staff maintains that, while engineering constraints may exist, these possible constraints can be adequately addressed by using design and construction practices and techniques usual and customary in the electric utility industry.¹²

x. Costs

When discussing the cost differential between Route 320 and Route 325, Oxy states that it is not attempting to litigate condemnation issues, though it continues to speculate on how such condemnation costs might affect overall route costs.¹³ Concho also includes speculative numbers related to possible condemnation issues.¹⁴ The Commission has already determined that appropriate compensation for condemnation of property is an issue not to be addressed in this proceeding,¹⁵ and Staff contends that focusing on these estimated costs of hypothetical problems only obfuscates the numbers that are currently in the record. It is possible that any of the routes, including Route 41, 320, or 325, could encounter unforeseen condemnation expenses, or it is possible that there will be few such concerns, or none at all. Speculation on these matters cannot

⁷ PFD at 30.

⁸ *Id.* at 31-32.

⁹ *Id.* at 32.

¹⁰ See Oxy's Exceptions at 15-17; Concho's Exceptions at 17-20.

¹¹ See Oxy's Exceptions at 16.

¹² Direct Testimony of David Bautista, Staff Ex. 2 at 24:16-19.

¹³ See Oxy's Exceptions at 4, 19.

¹⁴ See Concho's Exceptions at 21-22.

¹⁵ Order of Referral and Preliminary Order at 6 (Nov. 14, 2018).

outweigh the evidence on the record, which clearly establishes that Route 41 or Route 320 saves ratepayers **over \$17 million** (comparing to Route 325 modified to Route 41) or **roughly \$19 million** (comparing Route 325 modified to the original Route 320).¹⁶

xi. Moderation of Impact on Affected Community and Landowners

Staff reiterates its arguments above in Section II. E. iii. Community Values in response to Oxy and Concho's exceptions.

xii. Use of Compatible ROWs, Paralleling of Existing ROWs, and Paralleling of Property Lines

Not addressed.

xiii. Prudent Avoidance

Not addressed.

xiv. Alternative Routes or Facility Configurations

Not addressed.

F. Texas Parks and Wildlife Department

Not addressed.

G. Other Issues

Not addressed.

H. Conclusion

Staff continues to support Route 41 as the route that best meets the requirements of PURA § 37.056(c).

¹⁶ See Oncor/AEP Ex. 1 at Attachment 3; Oncor/AEP Ex. 12 at 12.

III. CONCLUSION

Staff respectfully recommends that the Commission adopt Staff's exceptions to the PFD and select Route 41 as the route that best meets the requirements of PURA and the Commission's rules.

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CERTIFICATE OF SERVICE

I certify that a copy of this document was served on all parties of record in this proceeding on May 6, 2019 in accordance with the requirements of 16 TAC § 22.74.



Kennedy R. Meier